



**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CWP-11213-2025(O&M)
Date of decision :25.04.2025

SURESH KUMAR

...Petitioner

Versus

STATE OF HARYANA AND OTHERS

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSH BUNGER

Present : Mr. Rajwant Singh Chahal, Advocate
for the petitioner.

Ms. Upasana Dhawan, A.A.G., Haryana.

HARSH BUNGER, J. [ORAL]

Prayer in the present writ petition, filed under Articles 226/227 of the Constitution of India, is for issuance of a writ in the nature of *certiorari*, for setting aside the *sanad takseem* dated 15.12.2014 (Annexure P-8) and also the impugned order dated 11.09.2024 (Annexure P-12) passed by the learned Financial Commissioner, Haryana; whereby the revision petition (***ROR No.34 of 2017-18***) filed by the petitioner against the partition proceedings/*sanad takseem* was dismissed.

2. Respondent No. 3—Kishan Lal filed an application dated 13.11.2010 (Annexure P-1) seeking partition of joint land measuring *51 Kanals—2 Marlas* comprised in *Khewat No.18/13 min* (as per Jamabandi for the year 2007-08) situated at village Gokalpur Kumbhawas, Tehsil and District Rewari. In the partition application, the writ petitioner—Suresh Kumar was impleaded as respondent No. 3 and respondents No. 4, 5

and 6 in this writ petition were impleaded as respondents No. 1, 2 and 4, respectively.

2.1 It is apposite to note here that present petitioner as well as respondents No. 3 to 6 are real brothers.

2.2 It appears that in the aforesaid partition proceedings, Sh. Vijay Singh (respondent No. 4, herein) and Sh. Ratti Ram (respondent No. 5, herein) appeared in person.

2.3 It is stated that in the aforesaid partition proceedings, Mode of partition was prepared on 20.05.2013, however on 30.09.2013 respondent no. 7 herein (Smt. Sumitra) filed an application for impleadment on the plea that she had purchased *45 Kanals–4 Marla* area from Sh. Kishan Lal (respondent No. 3, herein), Sh. Vijay Singh (respondent No. 4, herein) and Sh. Raj Kumar (respondent No. 6, herein) vide sale deed dated 22.07.2013. The impleadment application is stated to have been allowed vide order dated 20.01.2014 and thereafter an amended Mode of Partition was prepared and the same was sanctioned on 10.11.2014. Thereafter, Naksha “*Bey*” and Naksha “*Zeem*” were also approved and partition proceedings culminated with the drawing of *Sanad Takseem* (Instrument of Partition) dated 15.12.2014.

2.4 Petitioner claims that he was not aware of the partition proceedings and came to know about the same only on 20.10.2017 when revenue staff came to take possession and thereafter, the he preferred a revision petition (***ROR No. 34 of 2017-18***) before the learned Financial Commissioner, Haryana; which was dismissed vide order dated 11.09.2024 (Annexure P-12).

2.5 In the aforementioned circumstances, the present writ petition has been filed before this Court for seeking relief(s), as noticed above.

3. Learned counsel for the petitioner has submitted that the partition proceedings have been conducted at the back of the petitioner as he was never served in the partition proceedings in accordance with section 20 of the Punjab Land Revenue Act (as applicable to Haryana); therefore, the entire partition proceedings stand vitiated. It is further submitted that in the partition proceedings, the possession of the petitioner has been disturbed and also that no rasta has been provided to the area allocated to the petitioner. It is further submitted that the petitioner has been allocated less valuable land than respondent No.7. With the aforesaid submission, prayer has been made for setting aside the partition proceedings and also the impugned order(s).

4. Heard.

5. As regards the contention that the partition proceedings have been conducted at the back of the petitioner as he was never served in the partition proceedings in accordance with Section 20 of the Punjab Land Revenue Act (as applicable to Haryana); suffice it to say that, a perusal of the *zimni* orders passed by the learned Assistant Collector would show that on dated 27.03.2012, the following order was passed:-

“27.3.12 “File presented. Case called. Counsel for the applicant and defendant No.1 & 2 present. On behalf of defendant No.3 & 4, defendant No.2 has produced special power of attorney which is taken on file. File be presented for 17.4.12 for filing reply.”

5.1 It is evident from the above extracted order dated 27.03.2012 that in the aforesaid partition proceedings, Sh. Vijay Singh (respondent No.4, herein) and Sh. Ratti Ram (respondent No. 5, herein) appeared in person and present petitioner-Suresh Kumar and Sh. Raj Kumar (respondent No. 6, herein) appeared through their attorney Sh. Ratti Ram

(respondent No. 5, herein). Thus, it cannot be accepted that the partition proceedings have been conducted at the back of the petitioner.

5.2. At this stage, learned counsel for the petitioner contends that respondent No.5-Sh. Ratti Ram had misused the signatures of the petitioner, taken on blank papers, by preparing an attorney and appeared on his behalf in the partition proceedings.

5.3 I have considered the aforesaid contention raised on behalf of the petitioner; however, I find no merit in the same. Rather, the aforesaid plea corroborates the fact that the attorney (on the basis of which respondent No. 5-Sh. Ratti Ram appeared on behalf of petitioner-Suresh Kumar) bears the signatures of the petitioner. Even if the aforesaid plea of the petitioner is assumed to be correct, in that eventuality the petitioner should have taken some action by way of filing a complaint against his brother i.e. respondent No. 5-Sh. Ratti Ram; for allegedly misusing his signatures taken on blank papers and for forging an Attorney on his behalf. No such course has been shown to be adopted by the petitioner. In my view, the aforesaid plea appears to have been taken by the petitioner as an afterthought and for some oblique motive. Therefore, the said plea is rejected.

6. As regards the contention that the possession of the petitioner has been disturbed, it is observed that the petitioner has failed to show that his possession over which area has been disturbed. Counsel for the petitioner has not referred to any entry in Khasra Girdawari or Jamabandi to show his exclusive possession of any area, so as to substantiate his plea that his possession over specific area has been disturbed. Therefore, the aforesaid contention raised on behalf of petitioner is found to be without any basis and hence rejected.

7. As regards the contention that no rasta has been provided to the area allocated to the petitioner; suffice it to say that the area allotted to the petitioner alongwith his brother Ratti Ram is comprised in Khasra No. 11//11/2/1, 26//1/2 in one block and Khasra No. 16//11/1 and 16//12/1 in other block and both the said parcels have been carved out abutting the passage(s). Accordingly, the aforesaid contention raised on behalf of the petitioner is also found without any merits and is rejected.

8. As regards the contention that the petitioner has been allocated less valuable land than respondent No. 7, it is observed that except the said bald plea, there is no material on record to indicate that the land allocated to the petitioner is less valuable or that the land under partition is of different value(s). In the absence of any material to *prima facie* show that the valuation or quality of land under partition was different, the aforesaid plea of the petitioner cannot be appreciated and the same is accordingly rejected.

9. That apart, learned counsel for the petitioner has failed to show as to what prejudice or loss has been caused to the petitioner by the manner in which the partition has been carried out or by the manner in which the respective co-sharers have been allocated land in the partition proceedings. It is not the case of the petitioner that he has been allocated less land than his due entitlement or that he has been allocated some inferior land. Rather, from a perusal of the Naksha “Bey” and also the *Aks Shajra*/site plan attached thereto (Annexure P-6), the partition appears to have been carried out in a fair and equitable manner. It is well established that partition can never be carried out with mathematical precision and some adjustments are always required to be made considering various factors like number of co-sharers in the joint land, location of land (whether abutting the road/passage or near to village abadi or town etc.), nature/value of land,

source of irrigation, existing possession of the parties, provisioning of passage(s)/water-course(s), construction of hutments/houses etc. There may be other factors as well which may call for carving out of blocks of respective co-sharers, in a particular manner.

- 10. No other point has been urged.
- 11. Considering the totality of circumstances, I find no compelling reason to interfere in the partition proceedings and /or the impugned orders. Resultantly, the instant writ petition fails and the same is accordingly, dismissed.
- 12. All pending applications, if any, shall also stand closed.

April 25, 2025	(HARSH BUNGER)
gurpreet	JUDGE
Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No